

**Notification of *ex-officio* provisional partial refusal of protection
(Article 5 of the Madrid Protocol, Rule 17(1) and (2) of the Common Regulations
under the Madrid Agreement and Protocol, Article 33(2), Articles 41 and 193
EUTMR, and Article 33 EUTMIR)**

Alicante, 28/06/2018

International registration number: **1407182**
Name of the holder: **Apple Inc.**
Trade mark: **A**

Protection of the abovementioned mark is provisionally refused for the European Union for the following services:

Class 35: Retail store services featuring computer software and electronic games provided via the Internet and other computer and electronic communication networks; retail store services featuring computer software and electronic games for use on computers, mobile digital electronic devices and other consumer electronic devices

I. Grounds

The list of goods and services does not entirely comply with Article 33(2) EUTMR.

Class 35: Retail store services *featuring* computer software and electronic games provided via the Internet and other computer and electronic communication networks; retail store services *featuring* computer software and electronic games for use on computers, mobile digital electronic devices and other consumer electronic devices

The term '*Retail store services featuring computer software and electronic games provided via the Internet and other computer and electronic communication networks;*' and '*retail store services featuring computer software and electronic games for use on computers, mobile digital electronic devices and other consumer electronic devices*' in Class 35 are imprecise and must be further clarified. For retail services or similar services, such as retail store services, wholesale services, mail order services and e-commerce services, in Class 35 in relation to the sale of goods, the Office (EUIPO) applies the judgment of 07/07/2005, C 418/02, 'Praktiker'. The term '*Retail store services*' is only acceptable where the type of goods to be sold or brought together for the benefit of others is indicated with sufficient clarity and precision. The term "**featuring**" is not precise enough since all that this term means, in principle, is 'for example'. It does not restrict the goods which follow. Consequently, it should be replaced by 'relating to' as this will restrict the goods

which come after.

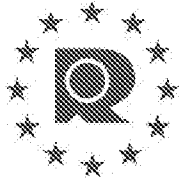
Please note that the proposed clarified terms should always fall within the same class as the original wording of the International Register.

The holder of the international registration is obliged to be represented before the Office by a legal practitioner or professional representative who is entitled to represent third parties before the EUIPO (Articles 119(2) and 120(1) EUTMR). Protection of the international registration for the European Union will be partially refused if a representative is not appointed within two months.

In order to remedy this deficiency, the Office recommends that you consult the Harmonised Database (HDB) at <http://tmclass.tmdn.org/ec2/?lang=en> . The HDB brings together a list of acceptable terms from every IP Office of the EU and ensures that the goods and services you choose will be immediately accepted.

II. Time Limit

The holder of the international registration is hereby given **a time limit of two months** to overcome the ground for refusing protection indicated and to comply with the requirements indicated above. Failure to do so will mean that after expiry of the time limit, the Office will render a decision in which it refuses the protection in whole or in part. Said decision may be appealed. The time limit of two months to reply to the present refusal will start on the day the present notification was issued by the Office (Article 193(2), (3) and (4) EUTMR). Any such reply of the holder of the international registration shall be addressed to the EUIPO only.



EDGHILL, Richard